NG CHIAT HUNG v. PUBLIC PROSECUTOR.

[App. Crim. Juris. (Hill, J.) January 26, 1950]

[Ipoh — Criminal Appeal No. 96 of 1949]

Food Control Proclamation, ss. 2, 15 and 17 — Rationed foodstuff — Controlled article.

This was an appeal against the conviction of the appellant on a charge of being in control of a rationed foodstuffs, to wit, rice an offence under section 15 of the Food Control Proclamation.

Held, that section 15 of the Food Control Proclamation deals with "controlled articles" only and does not create any offence in regard to "rationed foodstuffs."

APPEAL from Sessions Court.

Lim Cheng Ean for the appellant.

E. N. Griffith-Jones for the respondent.

Hill, J. : — In this case the Appellant was tried on the following charge on the 29th November, 1949, in the Sessions Court, Taiping :—

"That you Ng Chiat Hung on 21st September, 1949 at about 10.00 a.m. at No. 118 Kota Road, Taiping not being the holder of a Food Control Licence, were in control of 100 bags of Brazilian rice which is a rationed foodstuff, with the intention of committing an offence of dealing in such rationed foodstuff, an offence under Section 15 of the Food Control Proclamation No. 10/45 and Government Notification 71 of 19th February, 1948 and punishable under Section 17 (i) of Proclamation 10/45."

According to the judgment of the learned President the Appellant was convicted of the offence of being in control of a rationed foodstuff with the intention of dealing in such rationed foodstuff without being the holder of a Food Control Licence.

Both Section 15 of the Food Control Proclamation No. 10/45 and Government Notification 71 of 19th February, 1948, are concerned with "controlled articles" only. In Section 2 of the Proclamation are defined "controlled article" and "rationed foodstuff", two separate and distinct entities.

Whatever the intention of the Food Control Proclamation may be it does not create by Section 15 any offence in regard to "rationed foodstuff." Nor does Government Notification 71.

It was contended by Mr. Lim Cheng Ean on behalf of the Appellant that there was an irregularity in the trial which could not be cured because the charge was :—

(i) misleading and confusing;

(ii) neither a charge under Section 15 of the Food Control Proclamation No. 10/45 or under Government Notification 71 of 19th February 1948 but a combined charge under both and

(iii) referred to rationed foodstuff instead of controlled article.

I agree with this submission and am of the opinion that the charge was bad and amounted to a nullity.

The appeal is allowed and the conviction, sentence and order of confiscation quashed.

If it is considered desirable there can be a fresh trial and I therefore refrain from expressing any opinion on the other points raised by Mr. Lim Cheng Ean, but I trust that full consideration will be given to the question of re-trial and whether the procedure adopted in this matter was correct and proper before further proceedings are instituted against the Appellant.

Appeal allowed.

HABSAH BINTI MAT v. ABDULLAH BIN JUSOH.

[Orig. Civ. Juris. (Callow, J.) February 14, 1950]

[Alor Star — Civil Suit No. 108 of 1949]

Malay Customary Law — Sharikat.

This was a claim by the plaintiff for the transfer of a half-share in land, which was registered in the name of the defendant. The plaintiff was the wife of the defendant, but she had been divorced and had subsequently remarried.

Held, (1) that by Malay Customary Law in Kedah, a woman is entitled on divorce to half of any property acquired during the coverture by joint effort and that her subsequent re-marriage does not bar or extinguish her claim; (2) that on the facts in this case the plaintiff had established her claim to a half-share in the land and there must therefore be judgment in her favour.

Cases referred to :—

(1) *Rasinah v. Said, Taylor's* Malay Family Law p. 29.

(2) *Laton v. Ramah, Taylor's* Malay Family Law p. 35.

CIVIL SUIT.

Plaintiff in person.

James Taylor for the defendant.

Cur. Adv. Vult.

Callow, J. : — The claim is one for sharikat and reads :—

(a) That defendant make a transfer of her ½ share in the 10 relongs land to plaintiff's name on the ground above-mentioned valued $750.00.

(b) One female buffalo valued at $150.00.

(c) The cash as much as $35.00

At the conclusion of the plaintiff's case Mr. Taylor for the defendant submitted there was no case to answer and called no evidence.

Mr. Taylor's first point was that the plaintiff having been divorced and having subsequently remarried, forfeited all claims to sharikat; furthermore